

Serial No. 09/972,990
Response dated July 7, 2003 in
Reply to Office Action of April 4, 2003

REMARKS/ARGUMENTS

Claims 1-34 are pending in this application. Claim 1 has been rejected under 35 U.S.C. § 112 and Claims 1-5 have been rejected under 35 U.S.C. § 102(e) as being anticipated by the Franks patent. Claims 6-15 have been withdrawn from consideration in light of the earlier restriction requirement. The Examiner has acknowledged that claims 16-34 would be allowable if rewritten in independent form to include the limitations of claims 1-3.

The preamble of Claim 1 has been amended in response to the Examiner's formalities rejection under 35 U.S.C. § 112 to add the phrase --having a top portion-- following the phrase "holder for a jack-o-lantern", thereby to add a proper antecedent basis for the phrase "the top portion of the jack-o-lantern" used later in the claim.

Claim 1 has been further amended in response to the Examiner's anticipatory objection under 35 U.S.C. § 102 (e) to further clarify and limit the means for securing the light source holding means within the interior of the jack-o-lantern in a manner not taught or suggested by the Frank reference. More particularly, addition of the phrase: "by way of frictional engagement of said securing means with said top portion from said interior without extension of said securing means through said top portion to the exterior of said jack-o-lantern" clearly differentiates, in structure and utility, the invention claimed in amended claim 1 from that taught by the Frank reference. The Frank reference teaches the use of an artificial stem on the exterior of the top portion of the jack-o-lantern, (that is, the natural stem portion must first be removed to use the Frank invention) which stem interconnects by means of an attachment means 35 (in the form of hex nut or the like) mounted within the artificial stem exterior to and above the level of the top portion of the jack-o-lantern. Accordingly, the so called 'spacing means' 20 of Frank is, in reality, a threaded rod which pierces through the top portion of the jack-o-lantern to threadingly engaged with the hex nut 25 also positioned exteriorly of the jack-o-lantern. This is not only aesthetically questionable, but is structurally quite different than the simple, but elegant, arrangement taught by the present applicant which relies solely on frictional engagement of the barbs 54 and 54' with the top portion 24 of the jack-o-lantern to releasably suspend the light source holding portion within the interior of the jack-o-lantern **without** piercing through the top portion of the jack-o-lantern (and without the necessity of removing the natural stem of the jack-o-lantern. Thus the applicant's claimed solution to the problem of suspending a light source, such as a candle, from the removable lid portion of a jack-o-lantern without substantially altering the appearance of the jack-o-lantern, is neither taught, nor suggested, by the Frank reference, or by any of the other prior art references known to the applicant, such that the applicant is, with respect, entitled to broader protection than would be available if it simply collapsed claims 1-3 into claim 16, as suggested by the Examiner.

Serial No. 09/972,990
Response dated July 7, 2003 in
Reply to Office Action of April 4, 2003

Accordingly, applicant respectfully submits that amended claim 1 presented by this amendment is clearly patentable over the Frank reference, and over any other prior art of record in this application or know to applicant. Moreover, as the remaining claims presently under consideration either directly or indirectly depend from allowable claim 1, it is submitted that they are, for this reason, similarly allowable over the prior art.

Reconsideration of the above-identified application in view of the preceding amendments and remarks with a view toward timely issuance of a Notice of Allowance is respectfully requested. If after reviewing this response, the Examiner believes that a telephone or personal interview would facilitate the resolution of any remaining matters, the undersigned attorney may be contacted at the number set forth hereinbelow.

FAX RECEIVED

JUL 07 2003

TECHNOLOGY CENTER 2800

Respectfully submitted

Patrick J. Hofbauer
Registration No. 32,336
Tel: 905.634.0040

HOFBAUER ASSOCIATES
1455 Lakeshore Road, Suite 205N
Burlington, Ontario
Canada L7S 2J1
Tel: 905.634.0040
Fax: 905.634.9119
PJH/ms

CERTIFICATE OF TRANSMISSION

I hereby certify that this 7 page Response (exclusive of cover sheet) for Application Serial No. 09/972,990 is being facsimile transmitted to the United States Patent and Trademark Office (Fax No. 1-703-872-9318) on July 7, 2003.

Patrick J. Hofbauer

(Typed or Printed Name of Person Signing Certificate)

Signature

F:\wp51\STORAGE\92872pus\secondre
sponse.wpd